



SENATE BILL 426: Modify/Clarify Public Finance Statutes

2011-2012 General Assembly

Committee: Senate Finance
Introduced by: Sen. Clodfelter
Analysis of: PCS to First Edition
S426-CSRBx-32

Date: May 10, 2011
Prepared by: Cindy Avrette
Committee Counsel

SUMMARY: *The proposed Senate committee substitute for Senate Bill 426 makes changes to the bond statutes designed to improve their efficiency and it extends the sunset on the ability of cities and counties to issue special assessments for critical infrastructure needs from July 1, 2013, until July 1, 2016. The PCS removes two sections from the original bill that were more substantive in nature.*

CHANGES IN BOND LAW: Under the Local Government Budget and Fiscal Control Act, an obligation may not be incurred by a city or county unless there has been an approved appropriation authorizing the payment of the obligation. For an obligation evidenced by a contract, an agreement, or a purchase order, the finance officer must have a certificate attached to the appropriate instrument stating the instrument has been preaudited to assure that the obligation is an approved appropriation. An obligation incurred in violation of this requirement is invalid and may not be enforced. **Section 1 of the PCS** would eliminate the need for the preaudit certificate if the document has been approved by the Local Government Commission. The LGC approves all contractual obligations related to the financing of capital projects. These would include bond purchase agreements¹, credit facilities, repayment agreements, remarketing agreements, interest swap agreements, and installment purchase contracts.²

Under the Local Government Bond Act, the governing body of a local government unit initiates the general obligation bond process when it authorizes the filing of an application to issue general obligation bonds with the Local Government Commission. This authorization takes place in a formal meeting. After the LGC has received and acknowledged receipt of the application requesting approval to issue GO bonds, the governing body must introduce a bond order, which also takes place in a formal meeting. The bond order is the formal resolution which specifies the details of the bonds being put to a vote: the purpose of the bond, the amount of the bond, the source of revenues for repayment of the bond, etc. The law then requires other meetings after the bond order is introduced, such as a public hearing. **Section 2 of the PCS** would allow the governing body to adopt the bond order at the same meeting in which it initiates the bond process. It does not eliminate the requirement of public notice of intent or the publication of notice of hearing on the bond order.

Under the State and Local Government Revenue Bond Act, a bond order may not be adopted until after the Local Government Commission approves the application for the issuance of the revenue bonds. **Section 3 of the PCS** would remove this restriction. The current restriction means that the LGC is approving the issuance of bonds before the bond order has been finalized by the governing body.

SPECIAL ASSESSMENTS FOR CRITICAL INFRASTRUCTURE NEEDS: In 2008, the General Assembly enacted legislation authorizing counties and cities to use assessments as a financing tool for long-term capital projects. The legislation enabled counties and cities to pay for a project for which an assessment is imposed solely with revenue bonds to be paid from the assessments or from a combination of financing sources that include revenue bonds, general obligation bonds, and general revenue. The

¹ Bond purchase agreements would include GO bonds, revenue bonds, and special obligation bonds.

² Installment purchase contracts may also be known as financing agreements, lease-purchase agreements, capital leases, certificates of participation, and limited obligation bonds.

Senate PCS 426

Page 2

legislation provided that the authority would expire on July 1, 2013. **Section 4 of the PCS** would extend the sunset until July 1, 2016.

EFFECTIVE DATE: The bill would become effective when it becomes law.

S426-SMRB-46(CSRBx-32) v1